

(c) *Vessels less than 500 gross tons.* In unusual circumstances for vessels less than 500 gross tons, we may approve a vessel owner's request for a permanent exemption from the prohibitions in 40 CFR 1068.101(a)(1) for an engine that is subject to Tier 4 standards that will operate for extended periods outside the United States without it being in compliance with applicable certification requirements for international safety. We may set appropriate additional conditions on such exemptions, and may void the exemption if those conditions are not met.

(d) *Auxiliary engines on Category 3 vessels.* As specified in this paragraph (d), auxiliary engines on vessels with Category 3 propulsion engines are exempt from the standards of this part.

(1) To be eligible for this exemption, the engine must meet all of the following criteria.

(i) The engine must conform fully to the applicable NO_x standards of Annex VI and meet all other applicable requirements of 40 CFR part 1043. Engines installed on vessels constructed on or after January 1, 2016 must conform fully to the Annex VI Tier III NO_x standards under 40 CFR part 1043 and meet all other applicable requirements in 40 CFR part 1043. Engines that would otherwise be subject to the Tier 4 standards of this part must also conform fully to the Annex VI Tier III NO_x standards under 40 CFR part 1043.

(ii) The engine may not be used for propulsion (except for emergency engines).

(iii) The engine may be equipped with on-off NO_x controls, provided it conforms to the requirements of § 1042.115(g).

(2) You must notify the Designated Compliance Officer of your intent to use this exemption when applying for the EIAPP certificate for the engine under 40 CFR part 1043.

(3) The remanufactured engine requirements of subpart I of this part do not apply.

(4) If you introduce an engine into U.S. commerce under this paragraph (d), you must meet the labeling requirements in § 1042.135, but add the following statement instead of the compliance statement in § 1042.135(c)(10):

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.650 AND IS FOR USE SOLELY IN VESSELS WITH CATEGORY 3 PROPULSION ENGINES. INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

[73 FR 37243, June 30, 2008, as amended at 75 FR 23007, Apr. 30, 2010]

§ 1042.655 Special certification provisions for—Category 3 engines with aftertreatment.

This section describes an optional approach for demonstrating for certification that catalyst-equipped engines (or engines equipped with other aftertreatment devices) comply with applicable emission standards. You must use good engineering judgment for all aspects of this allowance.

(a) *Eligibility.* You may use the provisions of this section without our prior approval to demonstrate that aftertreatment-equipped Category 3 engines meet the Tier 3 standards. In unusual circumstances, we may also allow you to use this approach to demonstrate that aftertreatment-equipped Category 2 engines meet the Tier 4 standards. We will generally approve this for Category 2 engines only if the engines are too large to be practically tested in a laboratory with a fully assembled aftertreatment system. If we approve this approach for a Category 2 engine, interpret references to Tier 3 in this section to mean Tier 4, and interpret references to Tier 2 in this section to mean Tier 3.

(b) *Required testing.* The emission-data engine must be tested as specified in Subpart F to verify that the engine-out emissions comply with the Tier 2 standards. The catalyst material or other aftertreatment device must be tested under conditions that accurately represent actual engine conditions for the test points. This catalyst or aftertreatment testing may be performed on a benchscale.

(c) *Engineering analysis.* Include with your application a detailed engineering analysis describing how the test data collected for the engine and aftertreatment demonstrate that all

engines in the family will meet all applicable emission standards. We may require that you submit this analysis separately from your application, or that you obtain preliminary approval under § 1042.210.

(d) *Verification.* You must verify your design by testing a complete production engine with installed aftertreatment in the final assembled configuration. Unless we specify otherwise, do this by complying with production-line testing requirements of subpart D of this part.

(e) *Other requirements.* All other requirements of this part, including the non-testing requirements for certification, apply for these engines. Nothing in this section affects requirements in other regulatory parts, such as Coast Guard safety requirements.

[75 FR 23007, Apr. 30, 2010]

§ 1042.660 Requirements for vessel manufacturers, owners, and operators.

(a) For vessels equipped with emission controls requiring the use of specific fuels, lubricants, or other fluids, owners and operators must comply with the manufacturer/remanufacturer's specifications for such fluids when operating the vessels. Failure to comply with the requirements of this paragraph is a violation of 40 CFR 1068.101(b)(1). For marine vessels that are excluded from the requirements of 40 CFR part 1043 because they operate only domestically, it is also a violation of 40 CFR 1068.101(b)(1) to operate the vessel using residual fuel on or after January 1, 2015. Note that 40 CFR part 80 also includes provisions that restrict the use of certain fuels by certain marine engines.

(b) For vessels equipped with SCR systems requiring the use of urea or other reductants, owners and operators must report to us within 30 days any operation of such vessels without the appropriate reductant. Failure to comply with the requirements of this paragraph is a violation of 40 CFR 1068.101(a)(2). Note that such operation is a violation of 40 CFR 1068.101(b)(1).

(c) The provisions of this paragraph (c) apply for marine vessels containing Category 3 engines.

(1) The requirements of this paragraph (c)(1) apply only for Category 3 engines. All maintenance, repair, adjustment, and alteration of Category 3 engines subject to the provisions of this part performed by any owner, operator or other maintenance provider must be performed using good engineering judgment, in such a manner that the engine continues (after the maintenance, repair, adjustment or alteration) to meet the emission standards it was certified as meeting prior to the need for service. This includes but is not limited to complying with the maintenance instructions described in § 1042.125. Adjustments are limited to the range specified by the engine manufacturer in the approved application for certification. Note that where a repair (or other maintenance) cannot be completed while at sea, it is not a violation to continue operating the engine to reach your destination.

(2) It is a violation of 40 CFR 1068.101(b)(1) to operate the vessel with the engine adjusted outside of the specified adjustable range. Each two-hour period of such operation constitutes a separate offense. A violation lasting less than two hours constitutes a single offense.

(3) The owner and operator of the engine must maintain on board the vessel records of all maintenance, repair, and adjustment that could reasonably affect the emission performance of any engine subject to the provision of this part. Owners and operators must also maintain, on board the vessel, records regarding certification, parameter adjustment, and fuels used. For engines that are automatically adjusted electronically, all adjustments must be logged automatically. Owners and operators must make these records available to EPA upon request. These records must include the following:

(i) The Technical File, Record Book of Engine Parameters, and bunker delivery notes as specified in 40 CFR 1043.70. The Technical File must be transferred to subsequent purchasers in the event of a sale of the engine or vessel. (ii) Specific descriptions of engine maintenance, repair, adjustment, and alteration (including rebuilding). The descriptions must include at least the